

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36755

STATE OF IDAHO,)	2010 Unpublished Opinion No. 497
)	
Plaintiff-Respondent,)	Filed: June 4, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
JONATHAN LYNN HENERY,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael R. McLaughlin, District Judge.

Order denying I.C.R. 35 motion for reduction of sentences, affirmed.

Molly J. Huskey, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Jonathan Lynn Henery pled guilty to two counts of felony malicious injury to property, I.C. § 18-7001, and one count of intimidating a witness, I.C. § 18-2604. In exchange for his guilty pleas, additional charges, including an allegation that Henery was a persistent violator, were dismissed. The district court sentenced Henery to a unified term of five years, with a minimum period of confinement of one year, for the first count of felony malicious injury to property; a consecutive unified term of five years, with a minimum period of one year, for intimidating a witness; and a consecutive unified term of five years, with a minimum period of confinement of six months, for the second count of felony malicious injury to property. Henery filed an I.C.R. 35 motion, which the district court denied. Henery appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Henery's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Henery's Rule 35 motion is affirmed.